having said that, you cannot make it a debate. The Minister is replying. Now you have made a point. If he keeps on clarifying like this, we will convert it into a debate. There is a very thin line between a debate and clarifications. So we have to keep that.

SHRI PRAMOD MAHAJAN : Madam, only one point. He is asking for the withdrawal of the Bill. So, he should only talk about the withdrawal of the Bill. He can talk about what the provisions are in the new Bill only when the new Bill comes. The restriction put on me must apply equally when he is withdrawing the Bill. I cannot speak and he can speak anything ! He is speaking about clauses 29A, 29B, de-registration, communal parties, what is communal, etc. Allow me to speak about them and then let him answer.

THE DEPUTY CHAIRMAN : You understand that there is a reason why the Minister is withdrawing the Bill. The Minister is in his right to explain the reasons which you have asked for. He is only giving reasons why he is withdrawing the Bill. He has to say that because certain provisions are not enough, he is going to bring another containing enough provisions and is withdrawing the present one. That is what he is saying.

SHRI H. R. BHARDWAJ : I am giving you a fresh Bill.

THE DEPUTY CHAIRMAN : If the provisions were there already, there was no need to withdraw the Bill.

Now, the question is :

"That leave be granted to withdraw the Representation of the People (Amendment) Bill, 1990."

The motion was adopted.

SHRI H. R. BHARDWAJ : Madam, I withdraw the Bill.

THE CONSTITUTION (SEVENTY-FIRST) AMENDMENT BILL, 1990

THE DEPUTY CHAIRMAN : There is a third thing also, the Constitution (Seventy-first Amendment) Bill, 1990. *(Interruptions).*

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): Madam, I beg to move—

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to leave being granted by the Lok Sabha to withdraw the Bill further to amend the Constitution of India which was passed by the Rajya Sabha on the 29th April, 1992 and laid on the Table of the Lok Sabha on the 4th May, 1992."

The question was proposed.

SHRI SATISH AGARWAL (Rajasthan) : There is a point of order.

THE DEPUTY CHAIRMAN : Are you speaking on that ? I will call him before that.

DR. MURLI MANOHAR JOSHI (Uttar Pradesh) : It is to oppose the motion. He cannot move it.

THE DEPUTY CHAIRMAN : What is your point of order ? According to which rule he cannot move it ?

SHRI SATISH AGARWAL : Madam, I would draw your attention to rule 118. It says, "The member in charge of a Bill may at any stage of the Bill move for

[Shri Satish Agarwal]

leave to withdraw the Bill, and if such leave is granted, no further motion shall be made with reference to the Bill:" So, the power to withdraw the Bill is before the passing of the Bill. All the three stages of passing were gone through fully. And rule 111 says that when a Bill is passed by the Council, it shall be transmitted to the House for concurrence with a message to th ateffect. This particular Constitution Amendment Bill was passed by the House and was transmitted to the other House. So far as the stages of the passing of the Bill are concerned, all the stages are over. Under rule 118, he can withdraw the Bill at any stage of the Bill. All the three stages of the Bill have been exhausted and the Bill was transmitted to the other House. Now, if the other House does not agree to the passing of the Bill or of the amendments, there is a provision under the Constitution. Article 108 speaks of joint sitting of both Houses in certain cases. It says, "If after a Bill has been passed by one House and transmitted to the other House, the Bill is rejected by the other House....".

THE DEPUTY CHAIRMAN: The matter is quite different from what you are now referring to. If you have heard what Mr. Bhardwaj said, you can notice it. And I will read it out for you:

"That this House concures in the recommendation of the Lok Sabha that the Rajya Sabha do agree to leave being granted by the Lok Sabha to withdraw the Bill further to amend the Constitution of India which was passed by the Rajya Sabha on the 29th April, 1992 and laid on the Table of the Lok Sabha on the 4th May, 1992."

यह अगर पूरी बात आप सुन लेते तो ठीक था । चूंकि यह बिल हमारे यहां से पास होकर चला गया था । उसके बाद लोक सभा में यह था या उसकी कुछ और पोजीशन थी । यह मंत्री जी को ज्यादा मालूम है । मुझे उसके बारे में ज्यादा मालूमात नहीं है । बहरहाल वह बता सकते हैं । इसके बारे में लोकसभा से वह इजाजत लेकर आये हैं और हमारी कांकरेंस मांग रहे हैं क्योंकि यह बिल हमने यहां पास कर दिया था । यह यहां पेंडिंग नहीं है । तो पहले आपने जिन दो चीजों के विदड्रावल की परमीशन दी है, यह उससे अलग है ।

SHRI H. R. BHARDWAJ : It was pending before the Select Committee of the Lok Sabha.

THE DEPUTY CHAIRMAN: It was before the Select Committee of the Lok Sabha.

SHRI H. R. BHARDWAJ : Therefore, it is not withdrawal of the Bill.....(*Interruptions*).....

SHRI SATISH AGARWAL : And this is one good reason, Madam Deputy Chairman, that I am referring to Article 108. This is one good reason. This is one good reason that I am referring to Article 108 of the Constitution of India which says in what circumstances there will be a joint sitting of both Houses in certain cases.

"If after a Bill has been passed by one House and transmitted to the other House—

(a) the Bill is reject by the other House."

They may reject the Bill. They may reject it. We have not rejected the Bill.

SHRI H. R. BHARDWAJ: Today they have concurred and they have asked for the concurrence of this House.

SHRI SATISH AGARWAL: That I have understood. That I have understood. The motion is like that....I say 'if the other House can reject the Bill'. If they are not, they have not rejected the Bill. Then,

"(b) the Houses have finally disagreed to the amendments to be made in the Bill."

They have not disagreed to the amendments. There is nothing on record. Either you reject the Bill there. There is no question of withdrawal here once it is passed by this House either under Article 108, read with the provisions of Rule 111, with regard to the transmission of the Bill having passed by this House and Rule 118, my only respectful submission to this august body is, you can do that. You have a majority reference so far as this Resolution is concerned, but I am only making a point that there is no provision either under the rules or in the Constitution for withdrawal of a Bill which has been passed by one House and transmitted to the other House for concurrence. The other House can reject the Bill. If it rejects. then there can be a joint sitting of both Houses for any purpose whatsoever. So if anything is to be done, it has to be done in a joint sitting of the Houses. But no such leave can be granted after the Bill has been passed by one House. That is my submission. So, this motion is not in order. That is my point of order.

SHRI MADAN BHATIA: Madam, I would like to support it.

उपसभापति : एक मिनिट प्लीज । आपने जो रूल 118 कोट किया है, तो उसके लिये लोकसभा का भी रूल है और लोक सभा के रूल के अन्तर्गत, रूल 110 के प्रोविजन के अन्तर्गत... (**व्यवधान**) One minute please. This has been withd awn and being sent over here for our concurrence. Would you like me to read it out?

DR. MURLI MANOHAR JOSHI: No rule can surpass the Constitution.

उपसभापति : यहां कांस्टीट्यूशन का सवाल नहीं है ।

SHRI SATISH AGARWAL: I do not enter into any agrument with the Chair.

DR. MURLI MANOHAR JOSHI: Madam, please listen to me on the same point. The Constitution is supreme. कांस्टीट्यूशन से बड़ा कोई रूल नहीं हो सकता । संविधान की किसी भी प्रक्रिया में इस प्रकार की प्रक्रिया करने की अनुमति नहीं है । देखिये, संविधान का अनुच्छेद–107 कहता है–

"विधेयकों के पुरःस्थापन और पारित किये जाने के संबंध में उपबंध : (1) धन विधेयकों और अन्य वित्त विधेयकों के संबंध, में अनुच्छेद 109 और अनुच्छेद 117 के उपबंधों के अधीन रहते हुये, कोई विधेयक संसद के किसी भी सदन में आरम्भ हो सकेगा ।" यहां हुआ ।

"(2) अनुच्छेद 108 और अनुच्छेद 109 के उपबंधों के अधीन रहते हुये, कोई विधेयक संसद के सदनों द्वारा तब तक पारित गया नहीं समझा जाएगा जब तक संशोधन के बिना या केवल ऐसे संशोधनों सहित जिन पर दोनों सदन सहमत हो गये हैं, उस पर दोनों सदन सहमत नहीं हो जाते हैं ।

(3) संसद में लंबित विधेयक सदनों के सत्रावसान के कारण व्ययगत नहीं होगा ।

(4) राज्यसभा में लंबित विधेयक जिसको लोक सभा ने पारित नहीं किया है, लोक सभा के विघटन पर व्यपगत नहीं होगा ।

(5) कोई विधेयक जो लोकसभा में लंबित है या जो लोक सभा द्वारा पारित कर लिया गया है और राज्य सभा में लंबित है, अनुच्छेद 108 के उपबंधों के अधीन रहते हुए, लोकसभा के विघटन पर व्यपगत हो जाएगा ।"

इसमें पास होने के संबंध में कहीं यह नहीं लिखा हुआ है कि एक हाऊस में पास हो जाने के बाद दूसरे हाऊस से

[Dr. Murli Manohar Joshi]

बिना रिजेक्ट किए हुए आप उसे इस प्रकार वापस कर सकते हैं। ऐसी कोई सिफारिश नहीं की जा सकती।

संविधान का अनुच्छेद 108 कहता है–

108. कुछ दशाओं में दोनों सदनों की संयुक्त बैठक––(1) यदि किसी विधेयक के एक सदन द्वारा पारित किए जाने और दूसरे सदन को पारेषित किए जाने के पश्चात्–

(क) दूसरे सदन द्वारा विधेयक अस्वीकार कर दिया जाता है, या

(ख) विधेयक में किए जाने वाले संशोधनों के बारे में दोनों सदन अंतिम रूप से असहमत हो गए हैं, या

(ग) दूसरे सदन को विधेयक प्राप्त होने की तारीख से उसके द्वारा विधेयक पारित किए बिना छह मास से अधिक जिसमें लोकसभा का विघटन होने के कारण यदि विधेयक व्यपगत नहीं हो गया है तो राष्ट्रपति विधेयक पर विचार-विमर्श करने और मत देने के प्रयोजन के लिए सदनों को संयुक्त बैठक में अधिवेशित होने के लिए आहूत करने के अपने आशय की अधिसूचना यदि वे बैठक में हैं तो संदेश द्वारा या यदि वे बैठक में नहीं है तो लोक अधिसूचना द्वारा देगा।"

अब सवाल यह है कि इसमें क्या प्रक्रिया है ? एक विधेयक के इसी सदन में पास हो जाने के बाद दूसरे सदन के द्वारा यह कहना कि आप इसे अपने यहां वापस ले लीजिए, इसका प्रावधान संविधान में नहीं है। संविधान इसकी अनुमति नहीं देता। संविधान केवल बिलों को पास करने की ओर दूसरे हाऊस द्वारा उसको अस्वीकृत करने की या अमेण्ड करने की अनुमति देता है।

उपसभापति : चलिए हो गया।

डा० मरली मनोहर जोशी : इस प्रकार से सिफारिश करने की कोई अनुमति संविधान नहीं देता।

उपसभापति : अभी मुझे दूसरे लोगों को भी सुनने दीजिए। बोलिए, भाटिया जी। बाद में हनुमनतप्पा जी भी बोलेंगे।

SHRI MADAN BHATIA (Nominated): Madam, Deputy Chairman, I respectfully submit that the hon. Members do not understand the difference between the rejection of a Bill and the withdrawal of a Bill. So far as article 108 is concerned, it deals with a situation where a Bill is passed by one House and is rejected by another House. It has nothing to do with a situation where the other House passes a motion for withdrawal of a Bill and seeks the recommendation from the House which has passed the Bill for the withdrawal of the Bill. So far as the withdrawal of the Bill is concerned, there is a proviso to rule 110 of the Lok Sabha which says:

"Provided further that where a Bill originated in the Council" as in this case--" and is pending before the House"--this Bill was pending before the House, never rejected--"the Member in charge shall move a motion in the House recommending to the Council"--there was a motion in the Lok Sabha that it should be recommended to the Council--"that the Council do agree to leave being granted by the House to withdraw the Bill...."

This was the motion which was passed by the Lok Sabha. After the motion is adopted by the House why this motion has come to this House is because this proviso provides that there has to be concurrence by the Council to that motion. This motion which has been moved before this hon. House by the Law Minister is that this House concurs in the recommendation of the Lok Sabha. It is this concurrence which is sought by the Lok Sabha in pursuance of the proviso to Rule 110 of the Lok Sabha rules. The hon. Members do not

understand the difference between the rejection and the withdrawal of a Bill and the concept of concurrence of one House to the motion passed by another House. This is total travesty of the Constitution and the rule. If they are ignorant of the Constitution and the rule, I cannot help them.

श्री चतुरानन मिश्र : उपसभापति महोदया, एक पाइट ।

उपसभापति : बोलिए ।

श्री चतुरान मिश्र : हमारा ख्याल है कि माननीय सदस्य भाटिया जी बिना यह कहे हुए भी कह सकते थे कि वह नहीं कुछ समझते हैं, इगनोरेण्ट हैं । दूसरा तरीका भी है ला में ।

उपसभापति : वह लायर हैं, इसलिए अपनी बात कह गए । (**व्यवधान**) ....

श्री चतुरान मिश्र : सुप्रीम कोर्ट में यह बात कहें तो अलग है । .... (**व्यवधान**) ....मैं इसलिए कह रहा हू .... (**व्यवधान**) ....

SHRI SATISH AGARWAL: This is not a court.

THE DEPUTY CHAIRMAN: This is a supreme House.

SHRI SATISH AGARWAL: I can say very well that Mr. Madan Bhatia does not know the ABC of jurisprudence because this cannot override the provisions of the Constitution.

THE DEPUTY CHAIRMAN.. If youlookat page 31..(*Interruptions*)

SHRI SATISH AGARWAL: That can't be a concurrence with the Constitutional provisions. That is the basic of jurisprudence which Mr. Madan Bhatia does not understand at all. I don't l know how he has been minting money in this profession.

उपसभापति : इतना गस्सा करने की कोई जरूरत नहीं । गुस्सा मत करिए ।

श्री चतुरानन मिश्र : मैं यह कहना चाहता था कि दोनों हाउस में यह विद्ड्राअल करने का जो तरीका है, बहुत ही रिस्पेक्टफल लेंग्वेज का यूज किया है । ककरेंस आपसे मांगा गया है, यह है कि ड्यू रिस्पेक्ट इस हाउस को दिया गया है । तो हमको प्रवोक किया इनकी लेंग्वेज ने इसीलिए हमने यह कहना चाहा । बहुत रिस्पेक्टफुल, अदरवाइज साधारण लेंग्वेज में भी कह सकते थे कि I request you to get it withdrawan. लेकिन इन्होंने ऐसा नहीं कहा, आपका ककरेंसस आप दे दीजिए । तो जब एक हाउस दूसरे हाउस को इतना सम्मान प्रकट करता है तो मैं चाहता हू कि सुप्रीम कोर्ट ... (**व्यवधान**) ...

उपसभापति : कि हमें खुश होना चाहिये।

श्री प्रमोद महाजन : क्या सम्मान है? हमने पास किया, हमको वापिस कर दिया । This is an insult to this House.

श्री चतुरानन मिश्र: नहीं, नहीं,यह सम्मान है।

उपसभापति : उन्होंने वापिस नहीं किया है, जिसने मूल किया है, उसने वापिस किया है। There is a difference.The other House has not rejected it. The difference is that the Member or the Minister who has moved it in the other House is in his right to withdraw it. The Lok Sabha is asking for concurrence.

इन्होंने किया है, आप भी इन्कार कर दीजिये, बात खत्म हो गई ।

श्री प्रमोद महाजन : मैडम, इसमें सम्मान की कोई बात नहीं है । राज्य सभा ने जो बिल बरसों तक चर्चा करके एकमत से पारित किया, उसको विदड्रा करने की हालत में लाना, यह कौन सी राज्य सभा के सम्मान की बात है ?

श्री एस०एस० अहलुवालिया : महोदया, उसके बाद यह ज्वाइट सिलेक्ट कमेटी में भी गया था और उसमें राज्य सभा के सदस्य भी थे ; यह बिल गया था कमेटी में ।

उपसभापति : यह कमेटी में गया था।

श्री चतुरानन मिश्र : प्रमोद जी, आप जो कह रहे हैं, वह गवर्नमेंट पर आक्षेप है, होना चाहिये। हमारी शिकायत गवर्नमेंट से होगी कि तुम क्यों ऐसा कहते हो, लेकिन दोनों हाउस के बीच रिस्पेक्टफुल संबंध बनाये रखना और इसमें एक माननीय सदस्य दूसरे मानदीय सदस्य को यह नहीं कहेंगे कि इग्नोरेंस है, समझते नहीं हैं, यह सब अगर हो तो अच्छा नहीं है।

SHRI G. SWAMINATHAN (Tamil Nadu): Madam, I want to know one point. May I know under what provision we aregiving concurrence to the Bill which has already been passed by the House?

THE DEPUTY CHAIRMAN: It is done under Rule 118.

SHRI G. SWAMINATHAN: What does it say?

THE DEPUTY CHAIRMAN: Shall I read it ? It says:

"Provided further that where a Bill has originated in the House and is pending before the Council, the member in charge shall move a motion in the Council recommending to the House that the Hpuse do agree to léave being granted by the Coucnil to withdraw the Bi l and after the motion is adopted by the Counéil and concurred in by the House, the member in charge shall move for leave to withdraw the Bill."

Now, everything is in order. I have checked it. I have read the Lok Sabha rule. It was also read by Mr. Madan Bhatia. Rules of both the Houses have been read. As far as the legal position is concerned, the matter is very clear. Now, I will put the question to vote.

The question is:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to leave being granted by the Lok Sagha to withdraw the Bill further to amend the Constitution of India which was passed by the Rajya Sabha on the 29th April, 1992 and laid on the Table of the Lok Sabha on the 4th May, 1992."

The motion was adopted.

विपक्ष के नेता (श्री सिकन्दर बख्त) : सदर साहिबा, यह सरकार जिस तरीके से इन तमाम पास किये हुये बिल्स को, इन तमाम इंट्रोडयूस किये हुए बिल्स को वापिस ले रही है, हम इसकी सख्त मजम्मत करते हैं और एतराज के तौर पर हम वाक-आउट करते हैं।

†[شری سکندر بخت : صدر صاحبہ یہ کارروائی جس طریقہ سے ان تمام پاس کئے ہوئے بلس کو، ان تمام انٹروڈیوس کئے ہوئے بلس کو واپس لے رہی ہے ہم اسکی سخت مذمت کرتے ہیں، اور اعتراض کے طور پر ہم واک آوٹ کرتے ہیں]

(At this stage some hon. Members left the Chamber.)

6.00 P.M.

THE DEPUTY CHAIRMAN: Now, Mr. P. A. Sangma to move for leave to introduce a Bill.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1994

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P. A. SANGMA): Madam, I move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923.

The quesion was put and the motion was adopted.

SHRI P. A. SANGMA : Madam, I Introduce the Bill,

THE DEPUTY CHAIRMA N: The House is adjourned til 11 o'clock tomorrow.

The House then adjourned at one minute past six of the clock till eleven of the clock on Tuesday the 14th June, 1994.

†[] Transliteration in Arabic Script.